

REMARKS

Claims 14-30 are pending in this application.

THE RESTRICTION REQUIREMENT

The Examiner has required restriction under 35 U.S.C. § 121 to one of the following inventions:

- I. Claim 14, drawn to a composition, classified in class 526, subclass 319;
- II. Claims 15-24, drawn to a stent, classified in class 623, subclass 1.42;
- III. Claims 25-27, drawn to a stent of different chemical make-ups, classified in class 606, subclass 194; and
- IV. Claims 28-30, drawn to yet another stent, classified in class 623, subclass 49.

The Examiner contends that the inventions of Groups I-IV are distinct, each from the other. In response, Applicants provisionally elect with traverse to prosecute the invention of Group II, *i.e.*, claims 15-24. Applicants fully reserve the right to prosecute the non-elected subject matter in one or more related applications.

The claims in Group II and Group IV are both directed to stents. Applicants submit that independent claim 28 of Group IV includes all the limitations of the independent claim 15 in Group II. Even assuming *arguendo* that Groups II and VII represented distinct or independent inventions, Applicant submits that to search the subject matter of these Groups together would not be a serious burden on the Examiner.

The M.P.E.P. § 803 (Eighth Edition, August 2001) states:

If the search and examination of an entire application can be made without serious burden, the examiner 'must' examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, in view of this provision, even if for arguments sake, the subject matter of Groups II and IV are distinct inventions, the subject matter of these groups would necessarily be searched and examined in the search of the subject matter of the elected Group II and, therefore, would not be a "serious burden" on the Examiner.

For the reasons stated above, Applicants respectfully request that the restriction requirement under § 121 be modified such that Groups II and IV are combined and examined together.

Applicants reserve the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

Applicants respectfully request that the above remarks be entered and made of record in the file history of the instant application.

Respectfully submitted,

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Enclosures